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EXHIBIT 2
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HB HJ8
JAN 28 2013

January 28, 2013

Subject: HJ 8

FAX to: Montana House of Representative

House Natural Resources Committee

From: Mark Petroni (406) 646-1174

4 total pages including cover

If you have any questions feel free to contact me.

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10-10-72

DATE

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January 27, 2013

RE: HJ 8

Dear House Natural Resources Committee Members,

I am writing to clarify two issues presented at the January 25, 2013 hearing of HJ 8. 1) Concerns water diversions, ditches and impoundments in Wilderness and 2) livestock grazing in wilderness.

1). The Lee Metcalf wilderness had several impoundments, diversions and ditches in the wilderness. These structures were authorized by easements therefore maintenance and reconstruction was allowed as a private property right with motorized equipment. On several occasions I allowed backhoes into the wilderness to maintain water diversions and ditches.

2). Several proponents commented that grazing would be eliminated in designated wilderness areas. These comments were not correct. For your review I have shown below the language in the Forest Jobs and Recreation Act (FJRA) concerning Livestock Grazing. In addition (sent by separate e-mail) I have included copies of the other documents this section of FJRA tiers to. It is very clear that not only is livestock grazing allowed to continue, maintenance, reconstruction and addition of improvements is permissible as well. In fact maintenance, reconstruction and addition of improvements can be accomplished with motorized use.

Please allow me to point out that for 19 years of my career I managed livestock grazing in the Lee Metcalf Wilderness. Livestock grazing continues to this day in the Lee Metcalf Wilderness.

In my experience livestock grazing permits are cancelled or reduced for three basic reasons:

1. Failure to comply with the terms and conditions of a grazing permit. (i.e. grazing more animals than permitted or failing to maintain grazing improvements)
2. Resource damage caused by livestock grazing.
3. User conflict, basically someone complains that cattle are conflicting with their use of the National Forest.

The Forest Jobs and Recreation Act completely eliminate user conflict from consideration. Livestock are not only allowed in wilderness Areas, their use is codified in Federal Statute. If I were a rancher faced with potential wilderness on my allotment I would support the wilderness designation because it essentially guarantees my continued grazing as long as I take care of the resource and comply with the terms of my grazing permit.

Forest Jobs and Recreation Act language concerning livestock grazing.

(i) LIVESTOCK.—With in the wilderness areas, the grazing of livestock in which grazing is established before the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices as the Secretary concerned determines to be necessary, in accordance with— (1) section 4(d)(4) of the Wilderness Act (1622 U.S.C. 1131(d)(4)); (2) with respect to wilderness

areas administered by the Secretary of Agriculture, the guidelines described in House Report 96-617 of the 96th Congress; and (3) with respect to wilderness areas administered by the Secretary of the Interior, the guidelines described in Appendix A of House Report 101-405 of the 101st Congress.

Following are the documents cited in the Forest Jobs and Recreation Act concerning livestock grazing in wilderness.

Please note that the Congressional Grazing Guidelines 96-617 are used by the Forest Service to determine when motorized and mechanized use is acceptable in wilderness. Currently and since before I became the District Ranger of the Madison Ranger District in 1989 off road vehicle travel by ranchers is tightly managed. Ranchers were not allowed to leave roads unless they had permission. Routinely permission was given for construction or reconstruction of improvement, or to cache large quantities of salt for later distribution by horse back into the back country. This policy is similar to what is defined in the following Grazing Guidelines 96-617, the second guideline.

Section 4(d)(4) of the Wilderness Act (1622 U.S.C. 1131(d)(4));

(4) Water resources, reservoirs, and other facilities; grazing within wilderness areas in the national forests designated by this chapter, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

Congressional Grazing Guidelines 96-617

These guidelines, also known variously as House Report 96-617 and 96-1126, were appended to the Colorado Wilderness Act of 1980. In legislation subsequent to 1990, they are referred to as H.R. 101-405, Appendix A (as originally included in the Arizona Desert Wilderness Act of 1990). The guidelines grew out of apparent confusion on the part of agency managers as to how grazing was to be administered in wilderness beyond the general direction in the 1964 Wilderness Act's Section 4.(d)(4)(2) that it "...shall be permitted to continue..."

Rather than amend the 1964 Wilderness Act, Congress chose to issue these guidelines to clarify its intent. The guidelines apply to the Bureau of Land Management and the Forest Service. However, the degree to which they apply to the Fish and Wildlife Service and the National Park Service is unclear. You should consult your area's designating legislation and, if necessary, your agency's solicitor's office.

Congress set forth five basic principles in the House Report:

First, "There shall be no curtailments of grazing in wilderness areas simply because an area is...wilderness...." Any reduction in numbers of livestock must be made on the same basis as if the allotment were not in wilderness.

Second, "The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences,...stock tanks, etc.) is permissible in wilderness." The use of motor vehicles and motorized equipment is allowable only "where practical alternatives do not exist," and such use is "occasional," "expressly authorized," and "based on a rule of practical necessity and reasonableness."

Third, "The replacement...of deteriorated facilities...should not be required to be accomplished using 'natural materials,' unless [doing so] would not impose unreasonable additional costs on grazing permittees."

Fourth, "The construction of new...facilities...is permissible...." However, this must be done "...primarily for the purpose of resource protection...rather than to accommodate increased numbers of livestock."

Fifth, "The use of motorized equipment for emergency purposes such as rescuing sick animals...is also permissible. This privilege is to be exercised only in true emergencies...." In other words, a permittee may use a motor vehicle to place feed in an emergency, but not for routinely checking on the herd.

Finally, Congress wanted to make sure that these guidelines were to be applied where grazing was continuing, and "...not be considered as a direction to re-establish uses where such uses have been discontinued."

Thank you for your consideration of these issues. Please vote against HJ8.

If you have any questions feel free to contact me.



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